

REMARKS

Applicant's attorney is appreciative of the interview granted by the Examiner on December 22, 2009. During that interview, a sample of the mask was shown to the Examiner, and distinctions over the art were discussed.

Objection has been raised to the drawings under 37 CFR 1.83(a) on the basis that the single air space is not shown.

A new Figure 11 has now been added to the application, showing the bag of Figure 1 placed over the head of a user. A single air space is clearly present.

The specification has been amended to describe new Figure 11. No new matter has been added.

Claims 1, 6, 8 12, 16, 18-20, 23, 27 and 28 have been rejected under 35 USC 103(a) as obvious over Richardson in view of Roy, while Claim 2 has been rejected under 35 USC 103(a) over Richardson and Roy in further view of McGuinness, Claims 9-11 and 13 have been rejected under 35 USC 103(a) over Richardson and Roy in further view of Wen, and Claims 15 and 29 have been rejected under 35 USC 103(a) over Richardson et al and Roy in further view of Courtney.

At the interview, Applicant's attorney pointed out that the Roy reference is not prior art to the claimed invention. It is noted that Roy has been cited for a teaching that drawstrings and elastic bands are equivalents/interchangeable; paragraph [0016] of Roy has been cited.

The present application is based upon a PCT application having a filing date of September 29, 2003. Roy has a later filing date of June 18, 2004. While Roy is based upon an earlier provisional application 60/480,674 having a filing date of June 24, 2003, this provisional application does not include the cited paragraph [0016], and does not teach any equivalence between drawstrings and elastic bands.

Hence, the cited teaching of Roy is not prior art to the

claimed invention, and all rejections based upon the Roy reference must be withdrawn.

Moreover, in the context of the masks of the invention, drawstrings and elastic bands are not equivalents. It is noted that the drawstring of Richardson is fixed in position in a channel, and is not adjustable in position. An elastic band 64 is present, but as disclosed in US 5,452,712, this band is attached to the upper part of the hood, and is secured below the chin.

According to the invention, the adjustability resulting from the use of a separate elastic sealing means enables more efficient removal of carbon dioxide from the bag by enabling placement of both the inhalation filter assembly and the exhalation valve directly opposite the nose and mouth of the user, and tightening of the bag around the head.

There is no disclosure or suggestion in Richardson of an elastic sealing means which is not attached to the mask, and which enables fully adjusting the mask in position and securely sealing the mask.

Moreover, while as pointed out by the Examiner, the mask or hood of Richardson may be foldable, it is not flat-foldable to a minimum size, as is the mask of the invention. Claims 1 and 28 have been amended to recite that the mask is "flat-foldable" as is evident from the specification at page 1, lines 21-22, and page 2, last paragraph.

In addition, new claims 30 and 31 recite the size to which the mask can be folded, as disclosed at page 7, lines 3-5. New claims 32 and 33 recite the folded mask sealed in a pouch, as disclosed at page 7, lines 5-6.

Claims 1 and 27 have also been amended to recite that the single air space between the user and the bag wall is a "minimum" air space, as disclosed in the specification at page 6, line 9.

Applicant further submits herewith a declaration of inventor Michael Porat. As pointed out in the declaration, the mask of the invention is commercially successful, being sold in many countries, including the US and the United Kingdom. 100,000 masks have been sold in each of the US and the UK, and may more masks have been sold worldwide.

Withdrawal of these rejections is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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